

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shania Roach	Team: Team # 1	CCRB Case #: 201305741	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/02/2013 10:00 PM	Location of Incident: I-95 and Conner Street	Precinct: 47	18 Mo. SOL 12/2/2014	EO SOL 12/2/2014	
Date/Time CV Reported Wed, 06/26/2013 11:01 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/26/2013 11:01 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Gregory Zakoscielny	22059	945367	HWY 01

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DTS Spiros Komis	5720	879903	HWY 01

Officer(s)	Allegation	Investigator Recommendation
A.POM Gregory Zakoscielny	Abuse: PO Gregory Zakoscielny refused to provide his name to § 87(2)(b)	
B.POM Gregory Zakoscielny	Abuse: PO Gregory Zakoscielny searched the car in which § 87(2)(b) was an occupant.	

Case Summary

On June 26, 2013, § 87(2)(b) filed the following complaint on the CCRB website (encl. B 1-3). On June 2, 2013, at 10:00 p.m., § 87(2)(b) was driving southbound on I-95 and Conner Street, in the Bronx, when he was stopped by PO Gregory Zakoscielny of Highway 1. The following allegations arose as a result of their interaction:

- **Allegation A- Abuse of Authority: PO Gregory Zakoscielny refused to provide his name to § 87(2)(b)**

§ 87(2)(g)

- **Allegation B- Abuse of Authority: PO Gregory Zakoscielny searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

During his phone statement and interview, § 87(2)(b) stated that he intends to file a civil lawsuit; therefore this case was unsuitable for mediation.

Results of Investigation

Civilian Statements

Complainant/ Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old white male who stands 6'1" tall, weighs 150 pounds, and has brown hair and green eyes.
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) provided a phone statement on July 1, 2013 (encl. C1) and was interviewed at the CCRB on July 12, 2013 (encl. C 2-8). § 87(2)(g)

On June 2, 2013, at approximately 10:00 p.m., § 87(2)(b) was driving southbound on the Cross Bronx Expressway, and his girlfriend, § 87(2)(b) was a passenger in his four door 2003 Silver Acura 3.2TL, that had no tinted windows, and Massachusetts license plate § 87(2)(b). In the backseat of the car § 87(2)(b) had camera equipment, a tripod, and bags, and in the front passenger floor were some of § 87(2)(b)'s bags.

§ 87(2)(b) was driving from Massachusetts and made a stop at a friend's house in § 87(2)(b) MA, before continuing through New York on his way to a friend's house in New Jersey. § 87(2)(b)

§ 87(2)(b) was on three prescription medications, § 87(2)(b)

These do not affect § 87(2)(b)'s behavior in any negative way, and he felt alert and awake while driving.

§ 87(2)(b) was driving with the flow of traffic when he noticed flashing lights coming from the vehicle behind him. The traffic was rather dense and it took § 87(2)(b) a little time to pull over,

but after fifteen to twenty seconds, as soon as it was safe to pull over, § 87(2)(b) moved from the left lane to the center lane to allow the officer to pass. The vehicle then pulled up in the left lane, behind § 87(2)(b)'s vehicle, and stayed there with the lights flashing and turned the siren on and off. § 87(2)(b) saw what was occurring from his side mirror and after about five to ten seconds, took this as an indication that the officer was pulling him over. § 87(2)(b) had trouble pulling over due to heavy traffic and when he had crossed the lanes of traffic, the shoulder was very narrow and it took him a couple of minutes to find a place that was safe for him to pull over. The police vehicle pulled up right behind him about ten feet from his rear bumper.

The only officer that was in the car, as far as § 87(2)(b) could tell, was PO Gregory Zakoscielny, identified through the investigation and described by § 87(2)(b) as a uniformed Hispanic male with a Spanish accent, who stood 6'2", had dark brown shaved hair, an athletic build, and appeared to be in his late twenties. When PO Zakoscielny approached § 87(2)(b)'s vehicle, § 87(2)(b) only rolled his window a third of the way down because he had the air conditioning on and he did not want to let it all out the window. PO Zakoscielny asked for § 87(2)(b)'s license and registration. As § 87(2)(b) got his license out and attempted to hand it to the officer, PO Zakoscielny told him to roll down the window. § 87(2)(b) was confused because he has been stopped in the past and no other officer has had a problem with his window only being part of the way down. § 87(2)(b) asked, "What? Why?" PO Zakoscielny stated again, "Roll the window down." PO Zakoscielny asked § 87(2)(b) to roll the window down four or five times and then asked § 87(2)(b) to get out of the car. § 87(2)(b) immediately exited the car, leaving his wallet in the driver's seat, turning the car off with the keys in the ignition. § 87(2)(b) then asked PO Zakoscielny why he was making him get out of the car. PO Zakoscielny did not answer § 87(2)(b)'s question, and told him to go to the back of the car. § 87(2)(b) went to the driver's side of the car near the rear bumper. § 87(2)(b) asked PO Zakoscielny what crime he suspected him of committing.

PO Zakoscielny then told § 87(2)(b) to put his hands behind his back and lean over the trunk and when he did PO Zakoscielny handcuffed § 87(2)(b). PO Zakoscielny kept telling § 87(2)(b) to stop resisting and § 87(2)(b) said that he was not resisting. § 87(2)(b) voiced his objections because he felt he was being illegally detained. § 87(2)(b) told PO Zakoscielny that the cuff on his right wrist was rather tight, but PO Zakoscielny did not acknowledge him. § 87(2)(b) stated to PO Zakoscielny at this point that he would not consent to a vehicle search if it came to that because he had an expensive camera in his car and he knew that if PO Zakoscielny broke anything he would not be liable for it. PO Zakoscielny told § 87(2)(b) sit on the guardrail nearby.

§ 87(2)(b) who was still handcuffed, sat on the guardrail about five feet away from PO Zakoscielny. While § 87(2)(b) and PO Zakoscielny faced each other, § 87(2)(b) tried to read his badge. § 87(2)(b) asked PO Zakoscielny what his name was because he could not read it as he started to get up to try and read PO Zakoscielny's badge. PO Zakoscielny told him to sit back down and never told § 87(2)(b) his name or badge number. PO Zakoscielny told § 87(2)(b) that the interaction was being recorded on a recording device in his cruiser. § 87(2)(b) also asked for a supervisor and PO Zakoscielny ignored him. PO Zakoscielny radioed for other officers then walked over to § 87(2)(b)'s car and opened the front driver's side door a third of the way. § 87(2)(b) saw PO Zakoscielny reach his hand into the car with his right arm and also put his head inside of the vehicle. § 87(2)(b) stood up from the guardrail and yelled at him that he did not consent to a car search and to get out of the car. PO Zakoscielny shut the door and then came back over and told him to sit down and shut up. PO Zakoscielny then took a flashlight and

began looking in all four side windows of § 87(2)(b)'s car. PO Zakoscielny circled the car a couple of times.

Det. Spiros Komis, PO Harrington Marshall, and another unidentified officer, arrived approximately ten minutes into § 87(2)(b)'s interaction with PO Zakoscielny in two marked patrol cars that parked directly behind PO Zakoscielny's cruiser. Det. Komis was identified through the investigation and described as a uniformed white male with dark brown hair, an athletic build, and appeared to be in his late forties. PO Marshall was identified through the investigation and was described as a uniformed, stocky, black, male, who stood 6'5", and appeared to be in his mid-thirties, and PO4, who could not be identified through the investigation, was described as a uniformed white male with an average build. The officers then conversed for about five minutes with PO Zakoscielny.

Det. Komis opened the front passenger door of § 87(2)(b)'s vehicle and spoke to § 87(2)(b). § 87(2)(b) did not hear the conversation that took place because of the noise of passing cars and his distance from them. PO Marshall and PO4 approached § 87(2)(b) and he tried to interact with them by asking what was going on, and if they could loosen the handcuffs because they were painful and one of the officers told him to be quiet.

Det. Komis came over to § 87(2)(b) a short time after he talked to § 87(2)(b) and stated to § 87(2)(b) that he was placed in handcuffs because he was threatening PO Zakoscielny and PO Zakoscielny had felt like he was in danger. § 87(2)(b) stated that he did not know how he could have done that. Det. Komis began asking § 87(2)(b) if he was on any medications because his pupils looked dilated. § 87(2)(b) stated that he had already asked not to be questioned without his attorney present and that was confidential medical information, so he would not answer. Det. Komis said okay. Det. Komis told § 87(2)(b) that he would be receiving two citations once the cuffs were removed. Det. Komis then told § 87(2)(b) to stand up and turn around, and PO Zakoscielny removed his handcuffs.

PO Zakoscielny then gave § 87(2)(b) the citations for speeding and failure to comply. PO Zakoscielny gave § 87(2)(b) instructions on what he could do with the citations, whether he wanted to pay them or fight them. An officer, § 87(2)(b) could not remember who, asked § 87(2)(b) if she could drive and she said yes she could, then the officer told her that he wanted her to drive. § 87(2)(b) got in the driver's seat and § 87(2)(b) got in the front passenger seat and then they left before any of the other officers left.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old white female who stands at 5'2" tall, weighs 184 pounds, and has red hair and blue eyes.
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on July 12, 2013 (encl. C 9-14). § 87(2)(g)

On June 2, 2013, at approximately 10:00 p.m., § 87(2)(b) was riding in the front passenger seat, in a car that her boyfriend § 87(2)(b) was driving southbound on I-95. § 87(2)(b) said that § 87(2)(b) was speeding, and had been speeding for a while because they wanted to get to New Jersey to beat the bad weather.

As PO Zakoscielny approached § 87(2)(b)'s vehicle, § 87(2)(b) rolled the driver's side window down about one third of the way. As § 87(2)(b) attempted to hand his license to PO Zakoscielny, he asked § 87(2)(b) to roll his window down completely. § 87(2)(b) was a little nervous and he did not seem to understand the question and asked PO Zakoscielny why. PO Zakoscielny did not answer, and asked him again to roll the window down. § 87(2)(b) asked PO Zakoscielny for his name and badge number. PO Zakoscielny did not respond to § 87(2)(b)'s question, instead he asked § 87(2)(b) to get out of the car. § 87(2)(b) never ended up giving PO Zakoscielny his license and registration.

§ 87(2)(b) unlocked the driver side door, opened the door and stepped out of the car. It was very loud and § 87(2)(b) could not hear any of what was going on between § 87(2)(b) and PO Zakoscielny. After about five minutes § 87(2)(b) heard yelling between PO Zakoscielny and § 87(2)(b) and when she turned around and saw PO Zakoscielny placing § 87(2)(b) who did not struggle, in handcuffs.

§ 87(2)(b) then heard PO Zakoscielny tell § 87(2)(b) to sit on the ground, and § 87(2)(b) asked if he could sit on the guardrail, which he was allowed to do. While § 87(2)(b) was sitting on the guardrail he yelled to § 87(2)(b) to close his driver side door. § 87(2)(b) attempted to get out of the car to do so and PO Zakoscielny yelled at her to get back in the car. She then reached across the inside of the car and closed the door. Shortly after she closed the door PO Zakoscielny went over and used a flashlight and looked in the windows of the car and walked away. PO Zakoscielny then went back and made an attempt to open the front driver's side door as if to search the car. § 87(2)(b) yelled for him to stop because he had not consented to a search and PO Zakoscielny stopped. § 87(2)(b) stated that she could not remember if PO Zakoscielny opened the door, but she said that no officer ever entered the car.

Eventually Det. Komis, identified through the investigation, and described as a uniformed Hispanic male, with salt and pepper hair, stood 6' 0'', weighed 230 lbs., and appeared to be in his early fifties, came over to the driver's side window that was still rolled down and spoke to her and asked her what § 87(2)(b)'s problem was. She said that she did not think that he had a problem because he asked a question and PO Zakoscielny did not respond and kept persisting about his window. Det. Komis then asked if § 87(2)(b) was on any medications and she said that § 87(2)(b) has post-traumatic stress disorder and he is taking medication for that, for anxiety and for a mood disorder.

PO Marshall, identified through the investigation and described as a uniformed black male with a bald head, who stood 6' 0'', and weighed 230 lbs., asked § 87(2)(b) if she was comfortable to drive, if § 87(2)(b) was her boyfriend, how old § 87(2)(b) was and if he could see her license. § 87(2)(b) handed him her license and told him that § 87(2)(b) was 21, that she was 21, and that she was comfortable driving § 87(2)(b)'s car. PO Marshall told § 87(2)(b) that § 87(2)(b) had been handcuffed for his own safety and the officer's safety because he was very aggressive. She could not tell if that was true or if § 87(2)(b) was yelling because he was on the highway. PO Marshall stated that he would like her to drive the car and that § 87(2)(b) was being released and was going to get a ticket.

After about ten minutes, Det. Komis came back over and told § 87(2)(b) that she could get out and drive and she moved over to the driver's side and § 87(2)(b) got in the car. They then drove away towards New Jersey.

NYPD Statements:

Subject Officer: PO GREGORY ZAKOSCIELNY

- *At the time of the incident, PO Zakoscielny was a § 87(2)(b)-year-old, white male, with black hair and brown eyes, who stood 5' 10'', and weighed 210 lbs.*
- *On the date of the incident, PO Zakoscielny was assigned to conditions, for command Highway 1 between 2:00 p.m. and 10:35 p.m. PO Zakoscielny was in uniform, worked alone, and was assigned to vehicle # 5841, a white 2004 Crown Victoria that had 'NYPD Highway Patrol' printed on both sides and on the rear of the vehicle, and lights on the dashboard and on the roof.*

Memo Book

At 10:00 p.m., a car was stopped heading southbound on I-95 and Conner Street. A emotionally disturbed person, who was non-compliant, was placed in handcuffs for safety. Summons # § 87(2)(b) was issued for failure to comply and summons # § 87(2)(b) was issued for speeding. The summonses were issued to § 87(2)(b) with Massachusetts driver's license # § 87(2)(b) (encl. D 1-4).

Summonses

Summons # § 87(2)(b) was issued to § 87(2)(b) for violation of 11.02, failure to comply, on June 2, 2013, at 10:00 p.m., on the southbound side of I-95 and Conner Street by PO Zakoscielny. PO Zakoscielny also issued summons # § 87(2)(b) to § 87(2)(b) for speeding; driving at 73 mph in a 50 mph zone (encl. D5).

CCRB Statement

PO Zakoscielny was interviewed at the CCRB on September 10, 2013 (encl. D 6-8).

On June 2, 2013, at approximately 10:00 p.m., PO Zakoscielny was in his vehicle that was parked on the right shoulder of the southbound side of I-95 and Connor Street in the Bronx. PO Zakoscielny observed a vehicle traveling at a high rate of speed, which he estimated to be over the 50 mph speed limit. PO Zakoscielny used a laser device that measures vehicle speed and the device showed that the vehicle was traveling at 75 mph. PO Zakoscielny merged into traffic and followed the vehicle for approximately three miles with his lights activated. When PO Zakoscielny got close enough behind the vehicle, he activated his sirens. The vehicle did not pull over right away and approximately one mile later the vehicle pulled over to the right side of the road, on I-95 and East Tremont Avenue.

PO Zakoscielny stopped his vehicle directly behind the vehicle and activated the camera that was on the dashboard of his vehicle. PO Zakoscielny also explained that he wears a microphone that records the conversation during a car stop. PO Zakoscielny then exited his vehicle and approached the car. Once PO Zakoscielny approached the vehicle, the driver, § 87(2)(b) rolled his window down approximately two inches and held his driver's license in his right hand. At this time, PO Zakoscielny observed § 87(2)(b) sitting in the front passenger's seat and could smell a light odor of marijuana coming from inside of the vehicle. Before PO Zakoscielny could say anything to § 87(2)(b) § 87(2)(b) began speaking. PO Zakoscielny did not know what § 87(2)(b) said because cars were passing by and § 87(2)(b)'s window was barely open so he could not hear § 87(2)(b). PO Zakoscielny instructed § 87(2)(b) to roll down his window approximately three times and after each command, § 87(2)(b) continued to speak but did not roll down his window. When PO Zakoscielny instructed § 87(2)(b) to roll down his

window the fourth time, § 87(2)(b) threw his driver's license between the two front seats of the car and did not roll the window down.

PO Zakoscielny, noticing that § 87(2)(b) was not going to roll his window down and had just obstructed governmental administration by throwing his identification between the seats of the vehicle, opened the driver's side door and told § 87(2)(b) to step out of the vehicle. § 87(2)(b) complied, stepped out of the vehicle, and closed the door behind him. When he did, PO Zakoscielny instructed § 87(2)(b) to step to the back of his vehicle so that they could stand in a safe spot, as cars were passing by on the highway very close to where their vehicles were stopped, and so that the interaction could be recorded on PO Zakoscielny's camera that was on the dashboard of his vehicle. § 87(2)(b) complied and stood with his back facing the trunk of his vehicle as he leaned back onto his car, resting both of his hands on the trunk. PO Zakoscielny, who faced § 87(2)(b) asked him why he refused to roll down his window and provide his identification, § 87(2)(b) abruptly leaned forward, getting closer to PO Zakoscielny, and started yelling about his rights and other topics that PO Zakoscielny could not recall. § 87(2)(b) also yelled several statements to § 87(2)(b) however, PO Zakoscielny could not hear what the comments were.

Noticing that he was outnumbered and the situation had the potential to escalate because of § 87(2)(b)'s yelling and refusing to obey commands, PO Zakoscielny made the decision to handcuff § 87(2)(b) for his safety. PO Zakoscielny instructed § 87(2)(b) to turn around, place both of his hands on the trunk of his car, and spread his legs. § 87(2)(b) complied and as PO Zakoscielny placed handcuffs on § 87(2)(b) he explained that § 87(2)(b) was being handcuffed for both of their safety. As PO Zakoscielny placed § 87(2)(b) in handcuffs, § 87(2)(b) exited the front passenger's side of the vehicle and ran at the front of the vehicle towards the driver's side. As she did this, PO Zakoscielny instructed her to get back into the vehicle, twice in succession, and § 87(2)(b) complied by getting back into the vehicle. After § 87(2)(b) was handcuffed, PO Zakoscielny instructed him to sit on the guard rail nearby and § 87(2)(b) complied. PO Zakoscielny then went over the radio and placed a call for assistance so that other officers could keep an eye on § 87(2)(b) and § 87(2)(b) as he wrote the summonses in his vehicle.

Additional units arrived approximately two minutes after the call was placed; however, PO Zakoscielny could not recall who the officers were but recalled that three officers arrived in three patrol cars. PO Zakoscielny approached the driver's side of § 87(2)(b)'s vehicle and asked § 87(2)(b) to find the driver's license that § 87(2)(b) had thrown between the seats of the vehicle, and the vehicle's registration and insurance. § 87(2)(b) retrieved the driver's license and the registration and handed it to PO Zakoscielny through the driver's side window that was still open approximately two inches. At this time, PO Zakoscielny observed several bags and prescription pill bottles on the back seat of § 87(2)(b)'s vehicle. PO Zakoscielny explained that he could see into § 87(2)(b)'s vehicle because the front lights of his vehicle, which was parked directly behind, illuminated the inside of § 87(2)(b)'s car. As PO Zakoscielny looked at the pill bottles through the closed rear window from outside of the vehicle, § 87(2)(b) yelled that PO Zakoscielny had no right to search his vehicle. PO Zakoscielny explained to § 87(2)(b) that he was not searching his vehicle and that the pill bottles were in plain view. PO Zakoscielny never entered § 87(2)(b)'s vehicle and the only physical contact he made with § 87(2)(b)'s vehicle was when he opened the driver's side door to let § 87(2)(b) out. PO Zakoscielny stated that § 87(2)(b) asked for his name and PO Zakoscielny told § 87(2)(b) that his name would be on the summonses he would receive.

While one of the officers at the location stood with § 87(2)(b) PO Zakoscielny returned to his vehicle and wrote § 87(2)(b) two summonses, one for speeding and one for failing to comply with his commands to turn his window down. While writing the summonses in his car, PO Zakoscielny made the decision to ask § 87(2)(b) to drive the rest of the way because § 87(2)(b) was already aggravated, and had acted disorderly. PO Zakoscielny did not hear or see what transpired between § 87(2)(b) § 87(2)(b) and the other officers at this time because he was inside of his vehicle writing the summonses. PO Zakoscielny exited his vehicle, approached § 87(2)(b) and asked to see her driver's license. Once PO Zakoscielny confirmed that § 87(2)(b) driver's license was valid, he asked her to drive. § 87(2)(b) § 87(2)(b) complied and got into the driver's seat. PO Zakoscielny then walked over to § 87(2)(b) removed the handcuffs, and handed § 87(2)(b) the two summonses. § 87(2)(b) entered the passenger's side and they left the location.

Witness Officer: DET. SPIROS KOMIS

- *At the time of the incident, Det. Komis was a § 87(2)(b) -old white male with brown hair and brown eyes, who stood 5' 10" and weighed 192 lbs.*
- *On the date of the incident, Det. Komis was assigned to the Highway command between 2:00 p.m. and 10:35 p.m. Det. Komis worked alone, was in uniform, and was assigned to vehicle # 5827, a marked patrol car.*

Memo Book

At 10:00 p.m. Det. Komis assisted Highway 1 vehicle # 5841 with a car stop on the southbound Bruckner Expressway in the vicinity of Buhre Avenue. At 10:20 p.m. Highway 1 vehicle # 5841 issued a summons (encl. D 9-11).

CCRB Statement

Det. Komis was interviewed at the CCRB on July 28, 2014 (encl. D 12-13).

On June 2, 2013, at approximately 10:00 p.m., Det. Komis was on routine patrol when PO Zakoscielny placed a call for assistance over the radio. Det. Komis responded over the radio and informed PO Zakoscielny that he was en route to the location. It took Det. Komis several minutes to arrive at the location because he was on the opposite side of the highway. When Det. Komis arrived at the location, he saw PO Zakoscielny's vehicle parked on the right side shoulder of the highway with the lights activated. § 87(2)(b)'s vehicle was parked directly in front of PO Zakoscielny's patrol car. § 87(2)(b) was handcuffed and seated on the guardrail between his vehicle and the patrol car.

PO Zakoscielny informed Det. Komis that after he performed a car stop, § 87(2)(b) became verbally abusive, exited his vehicle, and became combative. PO Zakoscielny also told Det. Komis that he handcuffed § 87(2)(b) for his safety. Det. Komis noted that the area where § 87(2)(b) was stopped had four lanes of traffic, with cars traveling at or around the speed limit, and the shoulder where the vehicles were stopped was approximately six feet wide, which was not a lot of space for the officers and pedestrians to maneuver. After speaking with Det. Komis, PO Zakoscielny returned to his vehicle to write the summonses for § 87(2)(b).

While PO Zakoscielny did this, Det. Komis went over to the vehicle to speak with § 87(2)(b) who was the front seat passenger of § 87(2)(b)'s vehicle. Det. Komis' intention was to inform § 87(2)(b) what was happening with § 87(2)(b). Det. Komis approached the vehicle on the driver's side because the right side of § 87(2)(b)'s vehicle was extremely close to the guard rail. Det.

Komis also noted that it is a tactical maneuver to approach the driver's side window of the vehicle when a vehicle is close to the guardrail so if the driver drives off, the officer would not be pinned between the vehicle and the guard rail. Once Det. Komis reached the driver's side of the vehicle, he saw that the driver's side window was up. With the passing traffic and the window being up, Det. Komis knew § 87(2)(b) would not be able to hear him from where he stood so he opened the driver's side door so that he could speak to § 87(2)(b). Det. Komis leaned into the vehicle and told § 87(2)(b) that § 87(2)(b) would be issued a summons and would be free to leave. § 87(2)(b) asked Det. Komis why § 87(2)(b) was handcuffed and Det. Komis explained that it was for § 87(2)(b)'s safety as well as the safety of the officers. Det. Komis never searched § 87(2)(b)'s vehicle. Det. Komis then closed the driver's side door and returned to the back of § 87(2)(b)'s vehicle where the other officers stood.

Once PO Zakoscielny issued § 87(2)(b) the summons, § 87(2)(b) left the scene and the officers left the location shortly thereafter.

NYPD Documents

Roll Call

The Highway 1 roll call shows that PO Zakoscielny was assigned to vehicle # 5841 on June 2, 2013, during tour 3 (encl. E 1-5).

Other Evidence

Video Recording

On June 2, 2013, PO Zakoscielny had a dashboard camera posted inside of his vehicle and a microphone he wore on his body. There are two recordings of the interaction between PO Zakoscielny and § 87(2)(b) that lasted from 9:58 p.m. to 10:23 p.m. At the 10:05 p.m. time mark in recording number one, § 87(2)(b) sat on the guard rail and PO Zakoscielny stood facing him. § 87(2)(b) asked PO Zakoscielny, "What is your name, sir?" PO Zakoscielny replied, "You will have my name on the back of the ticket that I am giving to you." § 87(2)(b) replied, "Okay," then leaned forward so that he could read PO Zakoscielny's shield and tried to pronounce the name out loud. PO Zakoscielny continued to look down at the documents he held in his hands and did not respond to § 87(2)(b). § 87(2)(b) asked PO Zakoscielny to pronounce his name because he did not want to say it incorrectly and PO Zakoscielny replied, "That's fine. Don't worry about it. Relax." PO Zakoscielny did not verbally tell § 87(2)(b) his name during the recorded portions of the incident. The video also shows that PO Zakoscielny never searched or entered § 87(2)(b)'s vehicle. The video also shows that Det. Spiros Komis, PO Harrington Marshall, and a third officer whose face cannot be seen in the video, arrived later during the incident to assist PO Zakoscielny. Several minutes after arriving at the location, Det. Komis opened the driver's side door of § 87(2)(b)'s vehicle and leans his head in while he holds onto the outside of the vehicle. Det. Komis leans into the vehicle for approximately eight seconds before removing his head and closing door. Det. Komis returns to the rear of § 87(2)(b)'s vehicle where PO Zakoscielny and the other officers stand (encl. E 6-8).

Summons/Arrest for Incident and Disposition

- § 87(2)(b) contested both traffic tickets and his next scheduled court date is § 87(2)(b). As of July 30, 2014, numerous attempts have been made to obtain the disposition of § 87(2)(b)'s summonses; however, all contact attempts have been unsuccessful.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of September 25, 2013, with regard to the incident (encl. F2).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A3).

Subject Officer(s) CCRB History

- PO Gregory Zakoscielny has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. A2).

Conclusion

Identification of Subject Officer

PO Zakoscielny acknowledged interacting with § 87(2)(b) and PO Zakoscielny's dashboard camera recorded the incident.

Allegations Not Plead

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: PO Gregory Zakoscielny refused to provide his name to

§ 87(2)(b)

§ 87(2)(b) alleged that as PO Zakoscielny stood in front of him while he sat on the guard rail, he asked PO Zakoscielny what his name was and PO Zakoscielny never told § 87(2)(b) his name.

§ 87(2)(b) stated that after PO Zakoscielny asked § 87(2)(b) to roll down his window three times, § 87(2)(b) asked PO Zakoscielny for his name and shield number but PO Zakoscielny did not respond. PO Zakoscielny stated that at some point during their conversation § 87(2)(b) asked him for his name and PO Zakoscielny told § 87(2)(b) his name would be on the summons he will receive. The video recording of the incident shows § 87(2)(b) ask PO Zakoscielny for his name. PO Zakoscielny replied, "You will have my name on the back of the ticket that I am giving to you." § 87(2)(b) replied, "Okay," leaned forward so that he could read PO Zakoscielny's shield and attempted to pronounce the name. § 87(2)(b) asked PO Zakoscielny to pronounce his name because he did not want to say it incorrectly and PO Zakoscielny replied, "That's fine. Don't worry about it. Relax." On both summonses, PO Zakoscielny wrote "NY" on the line that said, "Complainant sign and print name/rank," and wrote his name illegibly on the line that said, "Radar operator name (print)."

According to Patrol Guide Procedure 203-09, an officer must, "courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so," (encl. A1).

§ 87(2)(g)

Allegation B- Abuse of Authority: PO Gregory Zakoscielny searched the car in which

§ 87(2)(b) was an occupant.

§ 87(2)(b) alleged that as he sat on the guard rail he saw PO Zakoscielny open the driver's side door and reach into § 87(2)(b)'s vehicle with his right arm. § 87(2)(b) also saw PO Zakoscielny's head inside of his vehicle. § 87(2)(b) who remained in § 87(2)(b)'s vehicle during the entire incident, stated that no officer ever entered § 87(2)(b)'s vehicle. PO Zakoscielny denied ever being inside of § 87(2)(b)'s vehicle and denied searching § 87(2)(b)'s vehicle. The video recording of the incident does not show PO Zakoscielny enter or search § 87(2)(b)'s vehicle at any point during the incident.

PO Zakoscielny and § 87(2)(b)'s witness, § 87(2)(b) denied the allegation. Further, the video recording of the incident did not show PO Zakoscielny enter or search § 87(2)(b)'s vehicle. § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date